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OFFICE OF PETITIONS

In re Application of :
Feria, Ming Chang, and Donald Chang :
Application No.: 09/661,967 : ON PETITION
Filing Date: September 14, 2000 :
Attorney Docket No. PD-2001108 :

This is a decision on the petition under 37 CFR 1.47 filed November 29, 2007, which will be treated as a petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.131.

The petition is **dismissed**.

The record reflects that the joint inventors named in subject application executed the declaration required by 37 CFR 1.63, and that the executed declaration was filed on December 1, 2000. Petitioner now files the instant petition under 37 CFR 1.47(b) because one of the joint inventors cannot be located and the other joint inventors have constructively refused to sign the declaration under 37 CFR 1.131. Petitioner requests that the declaration under 37 CFR 1.131 be accepted without the signatures of the joint inventors.

It is noted that the provisions of 37 CFR 1.47 only apply to the execution of the original oath or declaration under 37 CFR 1.63. A petition under 37 CFR 1.47 is not appropriate in this case because the joint inventors executed the original declaration. Relief can be granted, pursuant to 37 CFR 1.183, by the waiver or suspension of the requirements of 37 CFR 1.131 as to the joint inventors.

Accordingly, the instant petition will be treated as petition under 37 CFR 1.183 to waive the requirement of 37 CFR 1.131 so as to accept the declaration of prior invention, without the signatures of the joint inventors. The petition must be dismissed, however, a certificate under 37 CFR 3.73(b) did not accompany the petition. An authorized representative of the assignee for the application must sign the declaration under 37 CFR 1.131 because none of joint inventors is available to sign the declaration under 37 CFR 1.131. The assignee must, however, establish its authority to act in the application by filing a certificate under 37 CFR 3.73(b). The renewed petition must be accompanied by an executed certificate under 37 CFR 3.373(b) and a declaration under 37 CFR 1.131 executed by an authorized representative of the assignee.

The fee for the petition under 37 CFR 1.183 is \$400.00 as per 37 CFR 1.183 and 1.17(f). Deposit account 50-0383 will be charged an additional \$200.00, accordingly.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
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By FAX: (571) 273-8300
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Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3222.



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